REMARKS

This paper is submitted in response to the final Office action mailed on June 11, 2007. This paper amends no claims. Accordingly, after entry of this Amendment and Response, claims 1-18 will be pending.

I. Allowable Subject Matter

The Office action objects to claims 6, 12 and 18 in their current form, but states they would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for the indication of allowability, but wishes to keep claims 6, 12 and 18 in their present form due to the fact that it is believed that the independent claims are patentable in their current form. Applicant reserves the right to amend the claims into independent form at a later date.

II. Claim Rejections Under 35 U.S.C. § 103

Claims 1-5, 7-11 and 13-17 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Pat. No. 5,740,443 to Carini (hereinafter "Carini"), in view of U.S. Pat. No. 6,971,091 to Arnold et al. (hereinafter "Arnold"). A prima facie case of obviousness requires that a reference or combination of references "teach or suggest all of the claim limitations." See MPEP § 2143.

A. Independent claims 1, 7 and 13 are not obvious over Carini in view of Arnold

Claim 1 states, "after generating an inlined version of said source program, generating an updated execution frequency for each of said procedures." The Office action submits that Carini fails to disclose this limitation of claim 1, but holds that Arnold does. *See Office action*, pg. 4, paragraph 3-4. Specifically, the Office action cites to col. 15, lines 3-20 of Arnold. Applicant submits that Arnold fails to disclose, "after generating an inlined version of said source program, generating an updated execution frequency for each of said procedures." Arnold merely discloses that an update method of an edge listener is called when a thread switch occurs in a method prologue. *See Arnold*, col. 15, lines 3-5. This language does not disclose that the execution frequency of each procedure in the source program is being updated. In contrast, Arnold only discloses the calling of an update method of an edge listener wherein the edge listener walks the thread's stack to determine the call site that originated the call. *See Arnold*, col. 15, lines 6-7. This language is concerned with the process of inlining (e.g., determining the call site that originated the call) itself and not the process of updating the execution frequency of each procedure after inlining is complete.

Further, Arnold discloses that after updating the weights in the dynamic call graph ("DCG") , the DCG organizer clears the buffer. *See Arnold*, col. 15, lines 17-19. This

language merely states that the weights in the DCG are updated. Arnold does not appear to define what "the weights" include and whether the DCG includes the execution frequency of each procedure within the source program. Further, Arnold does not disclose that updating the weights in the DCG is done after an inlined version of the source program is generated. Therefore, Arnold fails to disclose this limitation of claim 1. As such, claim is patentable under 35 U.S.C. § 103(a) over Carini in view of Arnold.

As set forth above, Independent claims 7 and 13 are also rejected under 35 U.S.C. § 103(a) as being obvious over Carini in view of Arnold. Claims 7 and 13 substantially include the same limitations of claim 1, namely, "after generating an inlined version of said source program, generating an updated execution frequency for each of said procedures." Therefore, for at least the same reasons as claim 1, Carini and Arnold do not disclose all the limitations of claims 7 and 13. Thus, claims 7 and 13 are patentable under 35 U.S.C. § 103(a) over Carini in view of Arnold.

B. Dependent claims 2-5, 7-11 and 14-17 are not obvious in view of Carini in view of Arnold

Dependent claims 2-5, 7-11 and 14-17 depend upon and contain all the limitations of independent claims 1, 7 and 13, respectively. Therefore, for at least the reasons mentioned above, Carini and Arnold do not disclose each and every limitation of claims 2-5, 7-11 and 14-17. As such, claims 2-5, 7-11 and 14-17 are patentable under 35 U.S.C. § 103(a) over Carini in view of Arnold.

III. Conclusion

The Applicant thanks the Examiner for his thorough review of the application. The Applicant respectfully submits the present application, as amended, is in condition for allowance and respectfully requests the issuance of a Notice of Allowability as soon as practicable.

The Applicant believes no fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 as necessary.

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

Dated: August 13, 2009

Respectfully submitted,

Gregory P. Durbin, Registration No. 42,503
Attorney for Applicant
USPTO Customer No. 66083

DORSEY & WHITNEY LLP
Republic Plaza Building, Suite 4700
370 Seventeenth Street
Denver, Colorado 80202-5647
Phone: (303) 629-3400
Fax: (303) 629-3450